

Message Text

SECRET

PAGE 01 BONN 04093 01 OF 02 112109Z

70

ACTION ACDA-10

INFO OCT-01 EUR-12 ISO-00 ERDA-05 CIAE-00 H-02 INR-07

IO-11 L-03 NSAE-00 OIC-02 OMB-01 PA-01 PM-04 PRS-01

SAJ-01 SAM-01 SP-02 SS-15 USIA-06 TRSE-00 NSC-05 /090 W

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R 111628Z MAR 76

FM AMEMBASSY BONN

TO SECSTATE WASHDC 7131

INFO SECDEF WASHDC

AMEMBASSY LONDON

AMEMBASSY MOSCOW

USMISSION NATO BRUSSELS

USDEL MBFR VIENNA

USNMR SHAPE

CINC EUR VAIHINGEN

S E C R E T SECTION 01 OF 02 BONN 04093

E.O. 11652: GDS

TAGS: PARM, NATO, MBFR, GW

SUBJECT: MBFR: FORCE DEFINITIONS AND THE FRG STANDBY
READINESS FORCE

REF: MBFR VIENNA 0106 DTG 091512Z MAR 76

1. THE EMBASSY SUPPORTS DEPREP DEAN'S AS OPPOSED TO SOVIET REP KLESTOV'S INTERPRETATION OF THE FRG STANDBY READINESS FORCE (SRF) LEGISLATION THAT THOSE MEN DESIGNATED FOR CALL-UP TO THE SRF SHOULD NOT BE CONSIDERED ACTIVE DUTY SOLDIERS (SEE PARA 15, REFTEL). UNDER OUR READING OF THE APPLICABLE LEGISLATION, THE FORMER SERVICEMAN--WHETHER CONSCRIPT OR "SOLDIER ON TIME" (SOLDAT AUF ZEIT)--SELECTED TO REMAIN AVAILABLE FOR A PERIOD OF 12 MONTHS FOR THE SRF FOLLOWING THE END OF BUNDESWEHR ACTIVE DUTY SERVICE DOES NOT ENTER ACTIVE DUTY AGAIN UNTIL RECEIPT OF NOTIFICATION OF THE DEFENSE MINISTER'S ORDER. EMBASSY TRANSLATION OF SECTIONS OF
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SECRET

PAGE 02 BONN 04093 01 OF 02 112109Z

THE APPLICABLE FRG LAWS FOLLOW TO DOCUMENT THIS UNDER-

STANDING.

2. SECTION 23 (3) OF THE CONSCRIPTION LAW READS AS FOLLOWS:

"THE INDUCTION NOTICE FOR MILITARY SERVICE IN STANDBY READINESS SHALL PROVIDE THAT THE CONSCRIPT SHALL REPORT WITHOUT DELAY TO THE UNIT OR AGENCY SPECIFIED IF THE FEDERAL MINISTER OF DEFENSE, BY PUBLIC BROADCAST ANNOUNCEMENT (RADIO, TELEVISION) ISSUES THE ORDER PURSUANT TO SECTION 5A, PARA. 1, SENTENCE 1 OF THE CONSCRIPTION LAW OR THE DISTRICT RECRUITING OFFICE (KREISWEHRERSATZAMT) GIVES INFORMAL ACTUAL NOTICE TO THE CONSCRIPT. THE ANNOUNCEMENT IS CONSIDERED TO HAVE BEEN EFFECTED AT THE END OF THE FIRST BROADCAST, AND NOTIFICATION IS CONSIDERED EFFECTED WITH ITS DELIVERY TO THE CONSCRIPT; THIS POINT IN TIME SHALL ALSO ESTABLISH THE TIME OF ENTRY ON DUTY."

3. THE ABOVE CITED SECTION OF THE CONSCRIPTION LAW MUST ALSO BE READ IN CONJUNCTION WITH SECTION 2 OF THE SOLDIERS' LAW FOR DETERMINING WHEN ACTIVE DUTY SERVICE BEGINS. SECTION 2 ENTITLED "LENGTH OF MILITARY SERVICE STATUS" READS AS FOLLOWS:

"MILITARY SERVICE STATUS BEGINS AT THE TIME WHICH IS FIXED FOR THE ENTRY ON DUTY OF THE SOLDIER: IT ENDS AT THE END OF THE DAY ON WHICH THE SOLDIER IS DISCHARGED FROM THE BUNDESWEHR."

4. THE OPERATIVE PARTS OF SECTION 5A (1) OF THE CON-

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PAGE 01 BONN 04093 02 OF 02 112108Z

70

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S E C R E T SECTION 02 OF 02 BONN 04093

SCRIPTION LAW ENTITLED "STANDBY READINESS" DESCRIBE
THE LENGTH OF SERVICE IN THE SRF AS FOLLOWS:

"PROVIDED THE DEFENSE MINISTER SO ORDERS AND
FOR SUCH PERIOD OF TIME AS HE MAY ORDER,
CONSCRIPTS WILL PERFORM SERVICE IN STANDBY
READINESS FOR A PERIOD OF TWELVE MONTHS
FOLLOWING BASIC MILITARY SERVICE OR AT THE
END OF SERVICE STATUS AS A 'SOLDIER ON TIME.'
THEY ARE MEMBERS OF STANDBY READINESS DURING
THE TWELVE-MONTH PERIOD, PROVIDED THEY HAVE
RECEIVED AN INDUCTION NOTICE FOR THIS TYPE
OF MILITARY SERVICE."

5. FINALLY, TO CONCLUDE THE LEGAL ARGUMENT THAT SRF-
DESIGNEES ARE NOT ON ACTIVE DUTY, THE FOLLOWING
SENTENCE APPEARS IN THE INTERPRETATION SECTION FOR
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PAGE 02 BONN 04093 02 OF 02 112108Z

SECTION 5 OF THE CONSCRIPTION ACT:

"CONSCRIPTS ARE NOT SOLDIERS DURING STANDBY
READINESS."

6. WE NOTE REFTEL CARRIES A NOFORN SLUG. SHOULD
KLESTOV ADVANCE THE SAME ARGUMENT AGAIN DURING A
FUTURE INFORMAL SESSION DEVOTED TO FORCE DEFINITIONS
AT WHICH AMBASSADOR BEHRENDIS IS PRESENT, WE RECOMMEND
THAT CONSIDERATION BE GIVEN TO MAKING A FORMAL REQUEST
TO THE FRG, EITHER IN VIENNA OR BONN, FOR A LEGAL
MEMORANDUM ON THE SRF ACTIVE DUTY ISSUE.

HILLENBRAND

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